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Attorneys for Plaintiff James L. Adkins

IN THE DISTRICT COURT OF GUAM

JAMES L. ADKINS, Plaintiff, vs. PAUL SUBA, CHIEF OF GUAM POLICE DEPARTMENT; D.B. ANCIANO; SERAFINO ARTUI; JOHN F. TAITANO; J. P. RODRIGUEZ, AND DOES I THROUGH X, Defendants.	CIVIL CASE NO. **CV09-00029** **DECLARATION OF ANITA P. ARRIOLA IN SUPPORT OF PLAINTIFF'S MOTION TO DISQUALIFY OFFICE OF THE ATTORNEY GENERAL**

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

ANITA P. ARRIOLA declares:

1. I am counsel for plaintiff James L. Adkins in the above-captioned case. I make this Declaration in support of plaintiff's Motion to Disqualify Office of the Attorney General. I have personal knowledge of the facts contained herein.

2. Assistant Attorney General Robert Weinberg ("Weinberg") filed an Appearance of Counsel in this matter on June 30, 2010 on behalf of defendants Paul Suba, D. B. Anciano, and Serafino Artui. On December 8, 2010, I received an email from Weinberg. In the email, he informed me that Assistant Attorney General Kenneth Orcutt ("Orcutt") would appear in this

case as counsel for defendants John F. Taitano ("Taitano") and Jesse P. Rodriguez ("Rodriguez"). A true and correct copy of that email (without enclosures and without the string of emails preceding it) is attached hereto as Exhibit A.

3. On December 14, 20 and 27, 2010, I received three emails from Orcutt informing me that he represents Taitano and Rodriguez in this case and that he would accept service of the summons and Second Amended Complaint ("SAC") on their behalf. True and correct copies of those emails are attached hereto as Exhibits B, C, and D.

4. Weinberg and I agreed to meet on December 14, 2010 to discuss possible resolution of this case. We met on that date at Java Junction at 10 a.m. During our meeting we discussed plaintiff's new claims concerning the tampering of Mr. Adkin's cell phone and the destruction of the photographs in the cell phone. Weinberg disclosed to me that, with respect to such claims, defendants Taitano and Rodriguez would be asserting the defense of "reliance upon advice of counsel." He stated:

> I was the counsel and they relied on me. I was the one that told them to take the camera and see what was in it. See, I thought, and I still think, that the pictures would show that Mr. Adkins took the photos from the road, and not off the road as he claims. So Taitano and Rodriguez took the camera but they said when they checked it, they couldn't turn it on and I told them to go to a store to get a charger. But they still couldn't turn it on.

5. Plaintiff filed his SAC in this matter on November 24, 2010. The Office of the Attorney General was served with a copy of the SAC on the same day. Defendant Jesse P. Rodriguez was served with a summons and the SAC on December 20, 2010 through his attorney Orcutt. I was informed by Orcutt on December 27, 2010 that he is authorized to accept service of summons and the SAC on behalf of John F. Taitano, (see Exhibit D), but Taitano has not been served.

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

I declare under penalty of perjury under the laws of Guam and the United States that the foregoing is true and correct.

Dated this 4th day of January, 2011.

Anita P. Arriola

ANITA P. ARRIOLA

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

Anita P. Arriola

From: Rob Weinberg <rob.weinberg@yahoo.com>
Sent: Wednesday, December 08, 2010 2:30 PM
To: Anita P. Arriola
Cc: Kenneth Orcutt; Rob Weinberg (Office)
Subject: Re: Adkins v. Suba, et al - Stipulated Extension and Proposed Briefing Schedule
Attachments: Stipulated Briefing Schedule.doc; Proposed Order on Stipulated Briefing Schedule.doc

Thanks Anita,

Feliz Navidad and Happy Hanukkah. A Christmas through New Years holiday without brief writing sounds great to me to me too.

Please see attached stipulation and proposed order which put my answer/motion due date at January 7th and your opposition due four weeks later, February 4th. The 4th and the 18th for my reply are Fridays, so if you'd like an extra weekend until February 7th, I'm fine with moving those two dates to the following Mondays.

Ken is going to appear for Rodriguez and Taitano. I'm sure he'd be happy to cooperate with you about accepting service of the new complaint for them once he's had a chance to meet with them.

I've recently been assigned as counsel to GMHA and have inherited their legal business from Mair, Mair. Our case is the only pending litigation I'm involved in at the AG's Office that I'll be keeping unless Lenny Rapadas decides he has other uses for me. I think it's a good idea to throw some settlement discussion out on the table if only to see how open the parties may be to creative solutions. So, if you'd like to meet for coffee next week or the week after, over at Java Junction in Agana mall, I'm game. I'm pretty much free any morning next week except Monday from 8 - 10 a.m.

Let me know if you want me to change the dates on the attached and we'll figure out how to get it jointly filed, or you can tell me if you know how.

Thanks again. -Rob

EXHIBIT
A
PENGAD 800-631-6989

Anita P. Arriola

From: Ken Orcutt <korcutt@guamattorneygeneral.com>
Sent: Tuesday, December 14, 2010 8:15 AM
To: Anita P. Arriola; Rob Weinberg
Cc: Ken Orcutt
Subject: RE: Taitano and Rodriguez

Anita and Rob:

I wont be able to make it this morning. I have some fires to put out. I am meeting with one of my clients tomorrow on this case and will let you know whether I can accept service on his behalf.

Ken

From: Anita P. Arriola [mailto:anitaarriola@teleguam.net]
Sent: Friday, December 10, 2010 9:05 AM
To: Ken Orcutt
Subject: Taitano and Rodriguez

Dear Ken:

Will you agree to accept service of the summons and complaint on behalf of your complaints? Please let me know by end of today, otherwise I will have my process server serve them.

Anita P. Arriola
Arriola, Cowan & Arriola
259 Martyr St., Ste. 201
Hagatna, Guam 96910
Phone: 671 477-9730/33
Fax: 671 477-9734
Email: anitaarriola@teleguam.net

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ENGAD 800-631-6989
EXHIBIT
B

Anita P. Arriola

From: Ken Orcutt <korcutt@guamattorneygeneral.com>
Sent: Monday, December 20, 2010 9:56 AM
To: Anita P. Arriola
Cc: Ken Orcutt
Subject: Adkins v. GPD

Anita:

I met with J. P.Rodriguez. I am authorized to accept service on his behalf. I have had no contact with Mr. Taitano, but will renew my efforts to contact him this week.

Ken Orcutt

PENGAD 800-631-6989 EXHIBIT C

Anita P. Arriola

From: Ken Orcutt <korcutt@guamattorneygeneral.com>
Sent: Monday, December 27, 2010 10:53 AM
To: Anita P. Arriola
Cc: Ken Orcutt
Subject: Adkins v. GPD

Anita:

I spoke with John Taitano and I am authorized to accept service on his behalf.

Ken

EXHIBIT
D

PENGAD 800-631-6989